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City of Henderson, Officer C. Watts,

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MARK CLIFFORD SYKES,

Plaintiff,

v.

CITY OF HENDERSON (A.K.A.)
HENDERSON POLICE DEPARTMENT of
CLARK COUNTY NEVADA, OFFICER C.
WATTS P#2171, OFFICER B. SHAFFER
P#2237, SERGEANT K. ABERNATHY
P#1207 in their individual capacity, et.al.,

Defendants.

CASE NO.: 2:22-cv-00956-JAD-EJY

**STIPULATED REVISED
DISCOVERY PLAN AND
SCHEDULING ORDER**

Pursuant to Federal Rule of Civil Procedure 26(f) and Local Rule 26-1(b). Plaintiff Mark Clifford Sykes, (“Plaintiff”) representing himself, and Defendants City of Henderson, Officer C. Watts, Officer B. Shaffer and Sgt. K. Abernathy (collectively “Defendants”) by and through their attorney Nancy D. Savage, Esq., Assistant City Attorney for the City of Henderson, submit their Revised Discovery Plan and Scheduling Order. Deadlines that fall on a Saturday, Sunday or legal holiday have been scheduled for the preceding or next judicial day.



DESCRIPTION OF ACTION/PROCEDURAL HISTORY

Plaintiff originally filed his Verified Complaint on June 16, 2022 (ECF No. 1-2) and his First Amended Verified Complaint on November 3, 2022 (ECF No. 6).

Defendants filed their Motion to Dismiss on November 9, 2023 (ECF 18); Plaintiff filed his Opposition to the Defendants' Motion to Dismiss on November 27, 2023 (ECF 23); and Defendants filed their Reply in Support of their Motion to Dismiss on December 4, 2023 (ECF 24); the Court entered its Order Granting in Part Defendants' Motion to Dismiss (ECF 32) on June 28, 2024; and the Defendants filed their Answer on Plaintiff's remaining Claims on August 5, 2024.

The parties have conferred through email and had a telephonic conference on July 29, 2024 concerning the deadlines to be included in the instant Revised Discovery Plan and Scheduling Order. The conference was attended telephonically by Plaintiff Mark Sykes and Nancy D. Savage, Assistant City Attorney for the City of Henderson on behalf of the Defendants. Prior to receipt of the Magistrate Judge's Minute Order dated July 24, 2024, directing the parties to craft a revised discovery plan and scheduling order, the parties had been conferring concerning a stipulated extension of the existing deadlines as more fully described below.

In the Spring of 2024, Plaintiff moved to the State of Arkansas. Written discovery was served upon Plaintiff at his address of record in Arkansas on May 23, 2024, including the following: Defendants City of Henderson, Sgt. Abernathy and Officers Watts and Shaffer's First Request for Production of Documents to Plaintiff; Defendant Officer Shaffer's First Set of Interrogatories to Plaintiff; Defendant City of Henderson's First Set of Interrogatories to Plaintiff; Defendant Officer Watts' First Set of Interrogatories to Plaintiff; and Defendant Sgt. Abernathy's First Set of Interrogatories to Plaintiff. Plaintiff did not timely respond to any of the written discovery propounded to him by the Defendants. The Plaintiff contends that the Defendants' above-referenced written discovery was not received. The Defendants' written discovery requests and interrogatories

1 were provided to Plaintiff again in July of 2024. Due to Plaintiff's recent move and his current
2 circumstances, he requested an extended period of time to provide his responses, The parties
3 conferred to agree upon a stipulation to extend existing deadlines to accommodate the time that
4 Plaintiff needed to respond to the outstanding discovery from Defendants, with a reasonable time for
5 the Defendants to perform the discovery that they need once Plaintiff's written discovery responses
6 are received, and provide Plaintiff time to pursue additional discovery thereafter as needed.

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8 The Plaintiff has a request pending to the Defendant City of Henderson to supplement its
9 responses to three of its Responses to Plaintiff's Requests for Production. The timing of the responses
10 to the Plaintiff's that the City of Henderson supplement its Responses to Requests for Production has
11 been addressed between the parties. A deadline for a response to Plaintiff's Request to Supplement
12 is included in the Revised Discovery Plan and Scheduling Order at Plaintiff's request. With its
13 response to Plaintiff's request to supplement, Defendant will provide alternative dates of availability
14 for a meet and confer, in the event that Plaintiff wishes to engage in a meet and confer.

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16 The agreed upon extensions that would have been included in the parties' stipulation to extend
17 the existing deadlines have been incorporated into this stipulation setting forth a stipulated revised
18 discovery plan and scheduling order instead.

19 **REVISED DISCOVERY PLAN**

20 Pursuant to the Magistrate Judge's July 24, 2024 Minute Order, continued their email
21 communications concerning input to this Revised Discovery Plan and Scheduling Order ("Revised
22 Discovery Plan") and held a telephonic conference attended by Plaintiff Mark Sykes and Nancy D.
23 Savage, Assistant City Attorney for the City of Henderson on behalf of the Defendants, on July 29,
24 2024.

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26 A. **Initial Disclosures**: The parties have completed and served their initial disclosures.

1 1. **Areas of Discovery:** The Parties are in agreement that discovery pursuant to
 2 this Revised Discovery Plan will be needed on the Plaintiff's claims that remain pursuant to the Order
 3 Granting in Part Defendants' Motion to Dismiss (ECF 32), and Defendants' denials and the
 4 affirmative defenses thereto. No changes should be made on the limitations of discovery imposed
 5 under Federal Rules of Civil Procedure or local rules.

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 7 2. **Outstanding Discovery Responses:** Plaintiff will provide his responses and
 8 answers to the following written discovery: Defendants City of Henderson, Sgt. Abernathy and
 9 Officers Watts and Shaffer's First Request for Production of Documents to Plaintiff; Defendant
 10 Officer Shaffer's First Set of Interrogatories to Plaintiff; Defendant City of Henderson's First Set of
 11 Interrogatories to Plaintiff; Defendant Officer Watts' First Set of Interrogatories to Plaintiff; and
 12 Defendant Sgt. Abernathy's First Set of Interrogatories to Plaintiff, on or before **September 25, 2024**.

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 14 Defendant City of Henderson will provide Plaintiff with a response to his request that said
 15 Defendant supplement three of its Responses to Plaintiff's Requests for Production (specifically,
 16 Request Nos. 6, 10, and 11), on or before **August 7, 2024**. On or before **August 7, 2024**, when
 17 Defendant City of Henderson responds to Plaintiff's request to supplement that the City of Henderson
 18 supplement its Responses to Plaintiff's Requests for Production, Defendants' counsel will provide
 19 Plaintiff with dates and times of availability for a meet and confer, in the event that Plaintiff wants to
 20 schedule one.

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 22 3. **Revised Discovery Plan:** The Parties' stipulated revised discovery plan set
 23 forth below:

24 B. **Discovery Cut-Off Date(s):** Pursuant to LR 16-1(b), discovery in this action shall
 25 be completed on or before **March 13, 2025**.

26 1. **Discovery** must be completed no later than **March 13, 2025**.
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2. **Amending the Pleadings and Adding Parties:** The Parties shall have until **December 13, 2024** to file any motions to amend the pleadings or add parties.

3. **FRCP 26(a)(2) Disclosure of Experts:** Disclosure of experts shall proceed according to FRCP 26(a)(2) and LR 26-1(b)(3) as follows: The disclosure of initial experts and their reports shall occur on or before **January 13, 2025**. The disclosure of rebuttal experts and their reports shall occur on or before **February 11, 2025**.

4. **Dispositive Motions:** The date for filing dispositive motions shall be not later than **May 1, 2025**.

5. **Pretrial Order:** The Parties shall prepare a Consolidated Pretrial Order on or before **May 30, 2025**, which is not more than 30 days after the date set for filing dispositive motions in this case, as required by LR 26-1(b)(5). In the event that dispositive motions are filed, the joint pretrial order shall be filed no later than 30 days after the order(s) on the dispositive motion(s) is entered, or as otherwise ordered by the Court. The disclosures required under Fed. R. Civ. P. 26(a)(3), and objections thereto, shall be made in the joint pretrial order.

6. **Extensions or Modifications of the Discovery Plan and Scheduling Order:** LR 26-4 governs the modifications or extensions of this Discovery Plan and Scheduling Order. Any stipulation or motion must be made no later than 21 days before the discovery deadline sought to be extended. A request made after the expiration date of the subject deadline shall not be granted unless the movant demonstrates that the failure to act was the result of excusable neglect.

7. **FRCP 26-1(b)(9) – Presentation of Electronic Evidence for Jurors:** The Parties certify they have discussed whether they intend to present evidence in electronic format to jurors for the purposes of jury deliberations. Discussions between the parties will be ongoing as the trial date approaches and they stipulate that they intend to present any electronic evidence in a format compatible with the Court's electronic jury evidence display system.

1 8. **Trial by Magistrate Judge and Short Trial Program:** The Parties hereby
2 certify that they have considered consent to trial by a Magistrate Judge under 28 U.S.C. §636(c) and
3 Fed. R. Civ. 73 and the use of the Short Trial Program.

4 9. **Alternative Dispute Resolution:** The Parties have considered the possibility
5 of using alternative dispute-resolution processes including mediation, arbitration, and if applicable,
6 early neutral evaluation (collectively, ADR), and are agreeable to engaging in a settlement
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conference, including one under LR 16-5 should the Court deem the case appropriate for such a settlement conference.

CITY ATTORNEYS' OFFICE

/s/ Mark Clifford Sykes

MARK CLIFFORD SYKES

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Henderson, Nevada 89009

Attorneys for Plaintiff

/s/ Nancy D. Savage, Esq.

NANCY D. SAVAGE, ESQ.

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Henderson, Nevada 89015

Attorneys for Defendants

City of Henderson, Officer C. Watts,

Officer B. Shaffer, Sgt. K. Abernathy

Dated: August 8, 2024

Dated: August 8, 2024

ORDER

IT IS SO ORDERED.

Dated: August 8, 2024


UNITED STATES MAGISTRATE JUDGE

Respectfully submitted by:

CITY ATTORNEYS' OFFICE

/s/ Nancy D. Savage, Esq.

NANCY D. SAVAGE, ESQ.

Assistant City Attorney

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